

CAUSE NO. CV-96-15377

WARRIOR and ULTIMATE)	
CREATIONS, INC.)	IN THE SUPERIOR COURT
Plaintiffs)	
)	
V.)	STATE OF ARIZONA
)	
TITAN SPORTS, INC.;)	
WORLD WRESTLING FEDERATION;)	
VINCENT K. MCMAHON and)	
LINDA MCMAHON, husband and wife;)	
INTERNATIONAL PROMOTIONS, INC.;)	
STANLEY TORGERSON; MACFRUGALS)	
BARGAINS CLOSE OUTS, INC.; and)	
JOHN DOE 1-15,)	
Defendants)	

DEPOSITION OF
DR. MAURO G. DI PASQUALE

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For Dr. Di Pasquale

1 Q Doctor, I'm showing you now what's been marked as
2 Exhibit 7 to the transcript. And would you take
3 a moment and please tell me if that's the
4 document you are referring to? I.e., the WWF
5 policy that was in effect at the time you began
6 your work?

7 MR. KOZAR: Objection to the form of the
8 question. There was no testimony that that's
9 when he began his work.

10 MR. BURGESS: Go off the record while the doctor
11 is looking at the document.

12 (DISCUSSION OFF THE RECORD)

13 A This looks like the policy I have on the
14 computer. I scanned in. Or at least very
15 similar to it.

16 MR. AIKEN:

17 Q If you'll note with me, please, it's dated in the
18 upper right hand corner on the second page --

19 A March 16th.

20 Q -- March 16th, 1992. Does that assist you in
21 confirming, if that's true, that this was the
22 policy in effect when you worked on the May 1st
23 policy?

24 A I may have an earlier one on the computer. I
25 believe that they sent me a copy of the one that

1 A Yes, I have that in front of me.

2 Q Please take a moment to review that.

3 A Okay. I have reviewed it.

4 Q Now, that provision was changed, correct?

5 A Yes, it was, yes.

6 Q And if you wish you may confirm the change in
7 Exhibit 2 to your affidavit.

8 A The change was made such that in the previous
9 drug testing policy the, there was a two tier
10 discipline system. The first offence in the
11 older policy was suspended without pay for 6
12 weeks. And the second offence was termination of
13 contract with the WWF. In the new policy that
14 was changed and the first offence was termination
15 of contract, resulted in termination of the
16 contract.

17 Q Thank you. Did you either suggest or draft the
18 change in that provision?

19 A I think this was a change that was a result of
20 the, result of the general policy on page one of
21 the new policy. As against the general policy
22 page one of the old policy. And reflected a
23 tightening up of the penalties secondary to
24 possession, purchase, sale or distribution of
25 illegal drugs, including anabolic steroids,

1 amphetamines, cocaine, marijuana, narcotics, and
2 peptide hormone and analogues by World, by WWF
3 talent.

4 So what happened was because we tightened up
5 the general policy, subsequent to that we made
6 changes to Section 12 in the new policy where any
7 WWF talent who was convicted or who admits to a
8 violation of law relating to use, possession,
9 purchase, sale or distribution of drugs of abuse,
10 including steroids and growth hormone, will be in
11 breach of contract and immediately dismissed.

12 So the changes reflected the change in
13 general policy and changing attitude within the
14 WWF. That's, and I believe that the revamping or
15 the change that was made in Section 12 in the new
16 policy was a joint change made with myself and
17 Titansports mainly at that time Vince McMahon.

18 Q You say joint change, in what way did you
19 participate in making those changes?

20 A I may have suggested that the policy be tightened
21 up in that aspect and they may have agreed. Or
22 they may have suggested and I may have agreed.
23 I'm not sure which way it went.

24 Q In any event, did you then draft the change? In
25 other words, the text that we see in the May 1st

1 policy attached to your affidavit, did you
2 actually draft that?

3 A That's my text.

4 Q And when did you draft that?

5 A Would have been probably the latter part of
6 April. I can't give you an exact date. It would
7 have been in progress the latter part of April.

8 Q And how was that change communicated to the
9 talent?

10 A I believe we, at least I, I believe I just told
11 the talent that that aspect had been changed and
12 that a first offence would result in termination
13 of the contract.

14 Q And when did you tell the talent that?

15 A It would be on the 28th. As far as I can
16 remember, it would have been on the 28th of
17 April, 1992.

18 Q Is that the Niagara Falls meeting that we've
19 already discussed this morning?

20 A Yes, that is.

21 Q That's the meeting of which you don't know
22 whether Mr. Hellwig was present or not?

23 MR. KOZAR: Objection.

24 A I don't know if he was present or not.

25 MR. AIKEN:

1 Q Was that the final version that was then
2 distributed to the talent?

3 A I believe it was.

4 Q Do you have information confirming that?

5 A I do not.

6 Q Do you know whether it was distributed to the
7 talent following your transmission to
8 Titansports?

9 A I assumed it was; I can't tell you for sure.

10 Q Did you receive back a printed final copy of the
11 policy for your files?

12 A I can't remember, I can't remember.

13 Q And if I understood your testimony, doctor,
14 you've never had in your files written
15 confirmation that any talent received a copy of
16 the new policy, is that correct?

17 A As far as I can remember, I can't remember any
18 written confirmation. But you know, it was a
19 long time ago and maybe memory is not perfect for
20 that.

21 Q Well, is there a portion of your file existing
22 somewhere today that would refresh your
23 recollection on that point?

24 A No, definitely not. I looked everywhere.

25 Q And in searching, you found nothing relating to

1 this policy in your files?

2 A Except for the one on the computer.

3 Q Okay.

4 A And I did, I spent hours searching for that. I
5 tore things apart I shouldn't have torn apart. I
6 could find nothing.

7 Q And thank you. I do appreciate that.

8 A Yes.

9 Q How was it then that you confirmed or even
10 learned that talent had received the new policy?

11 A I'm not sure that I ever did that. I think that
12 the -- I assumed the policy was distributed and
13 it was something that was left up to
14 Titansports. It wasn't my position to
15 distribute, etc., it's just something I assumed
16 would have been done by the company.

17 Q How important to you at the time was it that the
18 policy be distributed to talent?

19 A Very important.

20 MR. KOZAR: Objection.

21 MR. AIKEN:

22 Q And why is that?

23 A They need to have a written copy of the policy
24 that they're under. As far as the drug testing
25 in the April 28th meeting I asked them to or gave

1 them the ability to call me at any time if they
2 had any questions. And at that time it would be
3 difficult for them to remember everything that I
4 said at the time. They would have to have a
5 written policy so they could look at it and if
6 they had any questions, phone me.

7 Q And do you recall a call or any calls from
8 wrestlers in the April, the month of April,
9 1992?

10 A I can't, I can't. I do recall wrestlers asking
11 about certain things in the time that I was the
12 DPA but I can't give you specifics on that
13 because I just don't remember.

14 Q What about May of 1992, do you recall calls from
15 wrestlers regarding the policy at that time?

16 A I couldn't give you a 100% answer on that. I
17 believe I did but I couldn't tell you who or when
18 they called.

19 Q Was it your practice to log calls from talent?

20 A Only in respect to drug testing as far as the
21 positive drug test, when I contacted them to get
22 more information and to do my duties as a medical
23 review officer, calling a test positive or
24 negative. The other ones were casual.

25 Q And how would you describe that log, the one

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"Following his baseline test...",

which I now understand to be the May 4th test, is that correct?

A That's correct.

Q

"...Hellwig's testosterone/
epitestosterone ratio..."

And may we call that the TE ratio?

A Yes.

Q

"...began to decrease in subsequent tests, as would be expected if he ceased using testosterone."

A Exactly.

Q Are you able to say today, doctor, whether Mr. Hellwig was in fact using testosterone in 1992?

A Say there was a large probability that he was using testosterone prior to his baseline test. For various reasons. But not necessarily 100%.

Q In other words, you're not able to say with 100% certainty that he was taking testosterone before

1 the baseline test, is that your reference?

2 A That's true, that's true. The suspicion is
3 there. Under other say amateur rules, for
4 example, this would be considered definite
5 positive, but under our rules, in which I was
6 looking at many other factors, I wouldn't
7 consider this a definite positive.

8 Q And you're referring to the May 4th test, Exhibit
9 3?

10 A Yes, and subsequent tests as far as testosterone.

11 Q I have the same question then as to anabolic
12 steroids of any kind.

13 A What was the question, sorry?

14 Q My question is are you able to say today whether
15 Mr. Hellwig was taking anabolic steroids --

16 A Yes.

17 Q -- during 1992?

18 A Yes, I am. Two reasons. One is the methyl
19 testosterone metabolites that were picked up on
20 the test on August 16th, 1992.

21 Q You're referring to Exhibit 7?

22 A Exhibit 7, yes. This is the first time the
23 methyl testosterone showed up in his urinalysis
24 and methyl testosterone is not endogenous. It
25 has to be ingested or injected. It doesn't occur

1 naturally in the body. And the finding of the
2 two metabolites is consistent with the use of
3 methyl testosterone.

4 Q Is it consistent with the use of any dietary
5 supplement?

6 A No, not unless it was tainted with methyl
7 testosterone. Not unless it was given to him
8 surreptitiously. But it would have had to be an
9 ingestion of anabolic steroid.

10 Q Did you contact Titansports following the August
11 16 test?

12 A My usual policy was to contact the athlete
13 first.

14 Q Do you recall contacting Mr. Hellwig?

15 A Yes, I do remember contacting him and asking him
16 about this.

17 Q And tell us what you recall?

18 A Well, Mr. Hellwig said that he had gotten some, I
19 believe Yohimbe bark which he felt might have
20 been contaminated with methyl testosterone. And
21 there's always a possibility of contamination.
22 Somebody contaminating an athlete's drink,
23 somebody contaminating an athlete's nutritional
24 supplement.

25 And one time contamination, although it's

1 considered positive under most federation, as
2 drug control officers, as the medical review
3 officer, I felt in this case that a warning to
4 Jim to, to Mr. Hellwig that he not use whatever
5 supplements he was using was adequate at that
6 time. And as it happened it never showed up
7 again.

8 Q Would you --

9 A There is also -- going back to your first
10 question about whether or not he used anabolic
11 steroids, another problem would have been the
12 three metabolites of 19-nortestosterone or
13 nandrolone.

14 Q And you're referring to which attachment to your
15 affidavit?

16 A There are several but the first one where it
17 showed up was in the pre-screening of May the
18 4th, 1992 or the initial tests, baseline test.
19 And in subsequent, subsequent testing the
20 metabolites also showed up but there was a sign
21 that they were decreasing both in the ratios and
22 the number of metabolites that were being
23 detected which did not show an on-going use. But
24 an initial use at some time prior to the baseline
25 test.

1 these things, so we can't make decisions on what
2 happened.

3 MR. AIKEN:

4 Q Was there any other time that Mr. Hellwig
5 discussed with you dietary supplements or
6 anything else that he had ingested or was
7 taking?

8 A We may have talked about dietary supplements. I
9 can't specifically remember. But I did and it's
10 my practice to answer questions from various
11 people about what possibly could be in a dietary
12 supplement that might cause a false positive or
13 positive drug test. But I can't specifically
14 remember whether we did or not..

15 Q You've mentioned, as you did just a moment ago,
16 the elevated TE ratio?

17 A Right.

18 Q Is it possible for a deficiency of certain
19 enzymes to cause an elevated TE ratio?

20 A Yes, yes, it is. And I took this into account as
21 I spoke to Mr. Hellwig. In that if you look at
22 the, if you look at the testosterone levels and
23 the epitestosterone levels the first thing that
24 strikes you, or at least strikes me, for someone
25 who is used to looking at this, is that the

1 nanograms for a millilitre of testosterone at the
2 concentration of the specific gravity of the
3 urine sample is not great amounts.

4 For example, in the very first test, May
5 4th, 1992, your nanograms per millilitre at a
6 fairly concentrated urine was only 71. Now, with
7 a level of 71, I would have expected an epi-
8 testosterone of around at least 30. Somewhere
9 around 30 to 50 range and that would give him a
10 ratio of one to two roughly.

11 Now we're looking at a ratio which is 78.
12 My conclusion when I looked at this was that he
13 has an unusually low epitestosterone level.
14 Which would give him a high ratio. And I looked
15 at this and I thought, well, I can't see any
16 on-going use of testosterone because I'm not
17 seeing the levels I would ordinarily see.

18 If there was on-going use of the
19 testosterone, for example, I would have expected
20 a higher level of testosterone first of all
21 because it's so hard to predict what levels you
22 would get. His levels were fairly consistent
23 around the 60 -- 40, 50, 60, 70, 80, 90, which is
24 normal for that concentration. The
25 epitestosterones are always so much lower. Now

1 there are people who secrete low levels of epi-
2 testosterone and we have positive tests from
3 these people.

4 The other things is that the use of any
5 anabolics in the past may decrease your epi-
6 testosterone secretion for long periods of time.
7 Longer than you would pickup metabolites or
8 pickup any evidence that he had actually used
9 these compounds.

10 I took all this into consideration when I
11 didn't call this a positive test. Another aspect
12 you have to look at is looking at the luteinizing
13 hormone. The levels of luteinizing hormone
14 invariably were at levels that showed that it
15 wasn't acute use of testosterone. Because what
16 happens when you use testosterone, it decreases
17 the feedback mechanism to the pituitary and
18 decreases the trophic hormone for testosterone,
19 so you would expect a lower luteinizing hormone
20 here.

21 And I often will use a testosterone
22 luteinizing hormone ratio to see whether the
23 person's HPTA, hypo thalamic pituitary testicular
24 axis, whether that was depressed or not. So for
25 all these reasons I didn't call it a positive

1 test. For testosterone.

2 Q Did your view that Mr. -- well, did you conclude
3 that Mr. Hellwig was in the class of people whom,
4 as you put, secreted low levels of epi-
5 testosterone?

6 MR. KOZAR: Objection.

7 A My conclusion at the time was I didn't know.
8 That there was doubt in my mind. And because of
9 the doubt, I didn't call it a positive test. So
10 that -- these are fairly consistent. Most of the
11 tests are fairly consistent. So I just kept, I
12 just kept on really just watching.

13 And there is a possibility that someone
14 using very low doses of testosterone, either by
15 patch or orally, could come up with some kind of,
16 this kind of a profile.

17 But it I wasn't sure so that I didn't call
18 it a positive test at any time. And I did talk
19 to him about it as far as the possibility of
20 on-going small doses, maintenance doses of
21 testosterone.

22 MR. AIKEN:

23 Q And what did you conclude regarding maintenance
24 doses after speaking to Mr. Hellwig?

25 MR. KOZAR: Objection.

1 A I concluded that the possibility, the possibility
2 was still there but I still couldn't call it a
3 positive test because it just, there was too much
4 doubt in my mind that in fact, I gave him the
5 benefit of the doubt.

6 MR. AIKEN:

7 Q Would a serum test or blood panel have assisted
8 you in determining whether these were in fact
9 positive results reflected in Exhibits 3 through
10 10?

11 A No, it wouldn't because the serum values would
12 actually -- using low doses of testosterone and
13 serum values would be just as questionable.

14 Q We started a moment ago by discussing enzyme
15 deficiencies and whether they may cause elevated
16 TE ratios. How is it that one might test for
17 such enzyme deficiencies?

18 MR. KOZAR: Objection.

19 A There are tests. You could do challenge tests
20 which elevate serum levels of testosterone. I'll
21 give you an example of the various tests you
22 could do. One is the ketoconazole, which is an
23 anti-fungal agent which decreases testosterone
24 synthesis, biosynthesis. If someone was taking
25 exogenous testosterone, it would widen the gap.

1 So there are tests you can use that might
2 show you whether someone is using it, but they're
3 difficult to apply and you really have to use
4 almost like an isolation technique so the person
5 can't contaminate things. It wasn't
6 appropriate.

7 MR. AIKEN:

8 Q It wasn't appropriate in 1992?

9 A Right.

10 Q Regarding Mr. Hellwig?

11 A Right.

12 Q Were those tests available in 1992?

13 A I don't think so, I don't think so.

14 Q Was there a test or were there methods available
15 in 1992 that would have tested for an enzyme
16 deficiency that in turn might result in elevated
17 TE ratios?

18 A Not definitively. Most of the work has been done
19 I'd say in the last three or four years in the
20 papers. It wasn't really necessary because I
21 felt at the time that there was no need for
22 this. I didn't call it a positive.

23 Had I been inclined to say okay, this is a
24 definitive positive, at that point I would have
25 had to have something else to substantiate it. I

1 as being a lawyer or being able to interpret
2 these. I would use them as anybody would use
3 them. I really have no, nothing else to say on
4 that as far as elaborations.

5 MR. AIKEN:

6 Q Okay. Doctor, do you know whether it was a
7 violation of law simply to use growth hormone in
8 the U.S. in 1992?

9 MR. KOZAR: Objection. Asked for a conclusion.

10 A I don't think it was just to use, no.

11 MR. AIKEN:

12 Q And why do you say that? What information do you
13 have?

14 A Well, growth hormone is used clinically for, you
15 know, pituitary in dwarfs, or potential in
16 pituitary in dwarfs to regulate the system. It's
17 used as replacement therapy. It's used for
18 certain, I won't use the right word, wasting
19 diseases such as AIDS and cancer.

20 It has use post-surgically in some
21 debilitated patients. So a lot of clinical uses
22 of growth hormone to, I can't see to use it would
23 be a problem as far as my knowledge.

24 Q In 1992 then human growth hormone was not a
25 controlled substance, was it?

1 A No.

2 MR. KOZAR: Objection. Calls for a legal
3 conclusion.

4 A You know, there was a change in the U.S. in the
5 Controlled Substances Act which included anabolic
6 steroids as Schedule Three drugs, and I believe,
7 but I'm not positive, I don't know for sure,
8 whether growth hormone was included as a Schedule
9 Three drug.

10 MR. AIKEN:

11 Q Isn't what you've just said exactly the case,
12 that there was a distinction in that legislation
13 between anabolic steroids and growth hormones in
14 the Controlled Substances Act?

15 MR. KOZAR: Objection. You're asking for a legal
16 conclusion.

17 A I'm not sure, I'm not sure. I don't remember
18 exactly. Just sort of a vague feeling I have
19 that they may have separated them. I don't know
20 for sure.

21 MR. AIKEN:

22 Q You have prescribing power and authority under
23 your license to practice medicine here in
24 Ontario, correct?

25 A Yes, I do.

1 conclusion.

2 A I don't know for sure.

3 MR. AIKEN:

4 Q I'm not asking for a legal conclusion, just
5 doctors --

6 A I'm not sure. In Canada, again even then I'm not
7 100% sure, I believe it is in Canada. In the
8 U.S. I'm not sure. I guess the reason for that
9 is because if there was a clinical use of these
10 compounds it really wouldn't make a difference if
11 it was scheduled or not scheduled. If a patient
12 needs a specific compound, then it's used, you
13 know.

14 Q What is Somatropin?

15 A That's just another name for growth hormone.

16 Q Is that a brand name?

17 A No.

18 Q It's a generic name?

19 A Yes, I think it may have been a brand name at one
20 time but it's definitely a generic name.

21 Q What about Somatropin specifically? Are you
22 aware whether in 1992 it was a controlled
23 substance in the U.S.?

24 A No.

25 Q Or today?

1 MR. KOZAR: Objection.

2 A I'm not 100% sure.

3 MR. AIKEN:

4 Q Again you've looked to the same sources in Canada
5 and the U.S. to see whether that was a controlled
6 substance?

7 A Definitely.

8 Q To come back full circle to where we started a
9 moment ago, Somatropin then is a peptide hormone?

10 A Yes.

11 Q Not a steroid?

12 A Not a steroid.

13 Q Is there in Canada an analogue to the Controlled
14 Substances Act, in other words, is there a
15 similar piece of legislation --

16 A Yes.

17 Q -- that governs --

18 A Yeah.

19 Q -- the prescription of controlled substances?

20 A Yes, there is.

21 MR. KOZAR: Objection. That is not relevant.

22 MR. AIKEN:

23 Q What's the short name for that, please?

24 MR. BURGESS: Controlled Drug and Substances
25 Act.

1 I would suggest something to him.

2 Q There is evidence in this case that Mr. Hellwig
3 and Mr. McMahon had a phone call the day before
4 November 10th. In other words, November 9th.
5 And during that phone call, doctor, the evidence
6 is that Mr. Hellwig was terminated from his WWF
7 contract?

8 A On November 9th?

9 Q Yes, sir.

10 A The day before this one?

11 Q Yes, sir.

12 A Then I didn't know about it. I wouldn't have
13 known about it. Or else I probably wouldn't have
14 talked to him. Not maybe not have talked to him
15 but not gone into what we were going to be doing,
16 etc., you know.

17 See I wasn't told much about the
18 termination. I mean when I found out it was
19 probably likely well after November the 10th.
20 And what I was told basically is, I think I may
21 have even perhaps even mentioned that we were
22 going on and doing some more testing with some
23 people and I mentioned maybe Mr. Hellwig and then
24 I heard he is no longer with us. He was
25 dismissed for other reasons. And that's all I

1 knew. I didn't have a clue about why or
2 anything.

3 Q Do you remember from whom you heard that
4 information?

5 A It was either Vince or one of the people that
6 also worked with the talent like J.J. or I can't
7 remember, I really can't..

8 Q You're referring to J.J. Dillon?

9 A Yeah, J.J. I don't think he's with him any
10 more. It could have been even somebody else.
11 I'm not sure. I wasn't, I wasn't notified
12 officially that this talent is no longer with us
13 until I think well after the fact.

14 Q Did you learn what those other reasons were?

15 A No. Only just recently when I was presented with
16 the affidavit. I was very surprised. I didn't
17 know anything about it. I mentioned this to
18 Paul. I said I don't know anything about this.

19 Q What was surprising to you about the facts
20 presented in the affidavit?

21 A Oh, the only thing was I thought it was for some
22 reason of non-performance or something that he
23 was terminated. I didn't know it was for
24 involving growth hormones there. I had no clue.

25 Q So in November of 1992 you had no information

1 A Okay.

2 Q Do you have that?

3 A Yes, it's right here.

4 Q Now, although it's dated May 1, 1992 up in the
5 upper right hand corner, it says received 5-7-92
6 from Mauro Di Pasquale. Do you see that?

7 A Right.

8 Q Do you recall transmitting this document to
9 Titansports?

10 A Not specifically but it's possible.

11 Q On page eight of the draft policy, there are some
12 handwritten notes down at the bottom.

13 A Those aren't mine.

14 Q They are or --

15 A They are not mine.

16 Q So assuming that the 5-7-92 date is correct, is
17 it true that the new drug policy was not yet set
18 as of May 7th, 1992?

19 MR. KOZAR: Objection.

20 A All I can say is that the final, final policy
21 that I have on my computer, which is identical to
22 the one that was in there, was dated May 4th.
23 And that's the absolute last time I dealt with
24 that. And it had in it, so I'm not sure, I don't
25 understand why this would have been sent May the

CERTIFICATE OF REPORTER

I, NANCY LOWREY, a Steno-mask Court Reporter in and for the Province of Ontario, Canada, do hereby certify that I reported the Deposition of DR. M.G. DI PASQUALE, a witness called in the above-styled action; that the said witness was duly sworn; and that the foregoing pages constitute a true and accurate transcription of my notes of the Deposition of the said witness to the best of my skill and ability.

I FURTHER CERTIFY that I am not an attorney or counsel of any of the parties, nor a relative or employee of any attorney or counsel connected with the action, nor financially interested in the action.

A handwritten signature in cursive script, appearing to read "Nancy Lowrey", followed by a stylized flourish.

WITNESS MY HAND, this 11th day of June 1999.